IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7505 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VIHABHAI ALIAS VISABHAI ISHWARDAS PATEL
Versus
STATE OF GUJARAT

Appearance:
MR NS SHEVADE for Petitioners
MR RC KODEKAR, AGP for Respondent No. 1, 2

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.C.PATEL

Date of decision: 16/10/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE J.M.PANCHAL)

Rule. Mr.R.C.Kodekar, learned A.G.P. waives service of notice of rule on behalf of the respondents.

Having regard to the facts of the case and in view of the joint request made by the learned counsel for the parties, the petition is taken-up for final hearing today.

2. In this petition, which is filed under Article 226 of the Constitution, the petitioners have prayed to issue a writ of mandamus or any other appropriate writ or order directing the respondents to forward reference applications submitted by the petitioners under section 18 of the Land Acquisition Act, 1894 ("the Act" for short) to the appropriate court for determination of compensation payable to them.

3. The petitioner no.1 was the owner of lands bearing survey nos. 1765, 1761 & 1762, petitioner no.2 was the owner of lands bearing survey nos.1763 & 1764 and petitioner no.3 was the owner of land bearing survey no. 1652/1 situated at village Balol, Taluka & District : Mehsana. The lands belonging to the petitioners were acquired for the public purpose of G.G.S.-cum-CTF, North Santhal and the case was registered as Land Acquisition Case No.185/85. Respondent no.2 i.e. Special Land Acquisition Officer, Unit No.1, ONGC, Mehsana had made his award under section 11 of the Act and offered compensation to the claimants at the rate of Rs.140/- per Are. The petitioners were of the view that the offer of compensation made by the Special Land Acquisition Officer was inadequate. Therefore, they had submitted three different applications dated September 28, 1989 under section 18 of the Act requiring the Special Land Acquisition Officer to refer the matter to the court for determination of appropriate amount of compensation payable to them. The grievance made in the petition is that though the applications under section 18 of the Act are duly received by the respondent no.2, no action has been taken by respondent no.2 on those applications. Under the circumstances, the petitioners have filed the present petition and claimed the relief to which reference is made earlier.

4. Mr. Prakash Makwana, Deputy Collector and Special Land Acquisition Officer, ONGC, Unit No.2, Mehsana had filed an affidavit-in-reply dated June 19, 2000 denying the averments made in the petition. In the said reply, it was inter-alia stated that no reference applications as alleged to have been submitted by the petitioners were found in the record of the case and,

therefore, the petition should not be entertained. However, it was also mentioned in the said reply that if necessary evidence is produced by the petitioners regarding submission of the applications under section 18 of the Act, the same will be forwarded to the District Court concerned for appropriate action. When the matter was called out for hearing on October 11, 2000, Mr. Prakash Makwana, Deputy Collector and Special Land Acquisition Officer had produced Inward Register which indicated that the applications submitted by the petitioners under section 18 of the Act were duly received in his office and, therefore, he was called upon to file further affidavit pointing out true state of affairs regarding applications submitted by the petitioners under section 18 of the Act. Accordingly, Mr. Prakash Makwana, Deputy Collector and Special Land Acquisition Officer has filed an affidavit dated October 11, 2000 stating that Office of Unit No.1 was closed on March 31, 2000 and as record of the said Unit was bulky and as he was handed over charge of the said record with yadi on April 7, 2000, it could not be pointed out to the court earlier that the applications submitted by the petitioners under section 18 of the Act were duly received in the Office of Unit No.1 which was closed since March 31, 2000. Mr. Makwana has also mentioned in the further affidavit that as the applications submitted by the petitioners under section 18 of the Act are traced out, appropriate action on the same will be taken as required by law.

5. We have heard the learned advocates for the parties and taken into consideration the documents forming part of the petition. From the record of the case, it is evident that the petitioners had submitted applications dated September 28, 1989 under section 18 of the Act requiring the Special Land Acquisition Officer, Unit No.1, ONGC, Mehsana to refer the matters to the Court for determination of appropriate amount of compensation payable to them. Receipt of the applications is admitted by Mr. Makwana, who is now holding the charge of Deputy Collector and Special Land Acquisition Officer, ONGC, Unit No.2, Mehsana. It is an admitted position that till this date, no action has been taken by respondent no.2 on the applications submitted by the petitioners. Under the circumstances, we are of the opinion that interest of justice would be served if respondent no.2 is directed to take appropriate action on the applications submitted by the petitioners under section 18 of the Act within the time to be stipulated in this judgment.

For the foregoing reasons, the petition succeeds. Respondent no.2 is directed to take appropriate action on the applications dated September 28, 1989 submitted by the petitioners under section 18 of the Act as early as possible and preferably within one month from today after affording an opportunity of being heard to the petitioners. Rule is made absolute accordingly, with no order as to costs. Direct Service is permitted.

(J.M.Panchal,J.)

(M.C.Patel, J.)

(patel)